



Town of Barnstable Zoning Board of Appeals



Board Members:

Alex Rodolakis – Chair David Hirsch – Vice Chair Herbert Bodensiek - Clerk
Jacob Dewey – Regular Member Paul Pinard – Regular Member
Todd Walantis – Associate Member Mark Hansen – Associate Member Robert Twiss – Associate Member
James Tinsley – Town Council Liaison

Staff Support

Elizabeth Jenkins – Director - elizabeth.jenkins@town.barnstable.ma.us
Anna Brigham – Principal Planner – anna.brigham@town.barnstable.ma.us
Carol Puckett – Administrative Assistant – carol.puckett@town.barnstable.ma.us

Minutes

Wednesday, July 24, 2019

Hearing Room – 2nd Floor – 367 Main Street, Hyannis, MA

19 DEC 13 AM 10:01

BARNSTABLE
TOWN CLERK

| | |
|----------------------------------|---------|
| Alex Rodolakis - Chair | Present |
| David Hirsch – Vice Chair | Present |
| Herbert Bodensiek – Clerk | Present |
| Jacob Dewey – Regular Member | Present |
| Paul Pinard – Regular Member | Present |
| Todd Walantis – Associate Member | Absent |
| Mark Hansen – Associate Member | Present |
| Robert Twiss – Associate Member | Present |
| Vacant | |

Also present were Anna Brigham – Principal Planner and Carol Puckett – Administrative Assistant

As a quorum has been met, Alex Rodolakis opens the hearing at 7:01 PM

Call to Order

Introduction of Board Members – *All members present introduce themselves.*

Alex reads the following with no response:

Notice of Recording

Please note that this meeting is recorded and broadcast on Channel 18 and in accordance with MGL Chapter 30A §20. I must inquire whether anyone is taping this meeting and to please make their presence known.

Minutes

April 24, 2019, May 8, 2019

Motion to approve the minutes of April 24, 2019 is made by Mark Hansen

Seconded by Jake Dewey

Vote:

All in favor

Motion to approve the minutes of May 8, 2019 is made by Mark Hansen

Seconded by Jake Dewey

Vote:

All in favor

Old Business

7:00 PM

Appeal No. 2019-033

Ferrill

Forrest and Linda K. Ferrill, II, are appealing a decision from an Administrative Official which was a denial of a building permit. The Building Commissioner has denied the issuance of a building permit in reference to Section 240-43 citing that the request for the 40 foot by 60 foot metal

pole barn is not customary or incidental to a single-family dwelling and that the structure becomes predominant and thus the principal use. The subject property is located at 34 Cammett Road, Marstons Mills, MA as shown on Assessor's Map 079 as Parcel 020. It is located in the Residence F (RF) Zoning District.

Continued from June 12, 2019, June 26, 2019 & July 10, 2019. Members assigned: David Hirsch, Herbert Bodensiek, Jacob Dewey, Paul Pinard, Mark Hansen

Members assigned tonight: David Hirsch, Herb Bodensiek, Jacob Dewey, Paul Pinard, Mark Hansen

Mr. Ferrill informs the chair, Alex Rodolakis, that he is awaiting the arrival of his attorney.

Alex tables this matter for later and calls the Tardanico appeal:

7:01 PM

Appeal No. 2019-034

Tardanico

Charles Tardanico, Trustee of the Construction Associates Realty Trust, has petitioned for a Variance in accordance with Section 240-91.H(1)(b)[1] – Developed Lot Protection, Demolition and Rebuilding on Nonconforming Lot. The Petitioner is requesting relief from the maximum 20% lot coverage in order to construct a 16 foot by 36 foot pool resulting in a lot coverage of 21.6%. The property is located at 158 Parker Road, Osterville, MA as shown on Assessor's Map 116 as Parcel 037. It is located in the Residence C Zoning District.

No members assigned, no testimony taken.

Continued from July 10, 2019. Members assigned 07-10-19: Alex Rodolakis, David Hirsch, Herb Bodensiek, Jake Dewey, Mark Hansen

By a letter dated today, July 24, 2019, Attorney Michael Schulz has requested a continuance in order to await correspondence from abutters to the subject property and has signed a time extension agreement with the Town.

Motion to continue this to August 7, 2019 at 7:00 pm is made by David Hirsch

Seconded by Mark Hansen

Vote:

All in favor

CONTINUED TO AUGUST 7, 2019 AT 7:00 PM

Alex then takes matters not reasonably anticipated:

Matters Not Reasonably Anticipated by the Chair

Discussion

Target is requesting some minor modifications to the site plan approved in ZBA Special Permit 2018-027 (May, 2018) to include planters on the sidewalk adjacent to Target's northern and eastern elevations and a new egress door on the eastern elevation.

The modifications Target is requesting are consistent with CCC's DRI Minor Modification approved in July of 2018. However, the ZBA's Special Permit decision includes a condition that "Any modification of the façade plans by the Cape Cod Commission will be filed with the Zoning Board of Appeals for review and approval at an informal hearing." The planters were added as part of CCC's review and were not included in the plans submitted to ZBA.

Alex states that he will allow this administratively.

Alex reads the following into the record:

New Business

7:02 PM

Appeal No. 2019-039

Jason Stone Trust

Jason Stone Trust, Jason Stone Trustee, has petitioned for a Variance from Section 240-11 E. RB Residential District, Bulk Regulations. The Petitioner is proposing to construct an attached two-car garage to an existing dwelling 7.6 feet from the side yard setback where 10 feet is the minimum requirement. The property is located at 183 Bay Shore Road, Hyannis, MA on Assessor's Map 325 as Parcel 180. It is located in the Residence B (RB) Zoning District.

Members assigned tonight: Alex Rodolakis, David Hirsch, Jake Dewey, Herb Bodensiek, Paul Pinard

Representative: Michael Ford, Esq. who is also here with the applicant, Jason Stone. Attorney Ford gives a summary of the relief being requested. They seek a variance from the rear setback of approximately 2.5 feet where 10 feet is required. He states that Mr. Stone has owned both these properties for approximately 3 years and there is an acute need for storage with both dwelling houses being on slabs. Mr. Stone has worked with a designer and site engineer and designed a stand-alone one car garage, 2 stories with storage up above and would've fit into the setbacks. However, Mr. Stone contacted his abutters because of on-street parking issues. The abutters had a view issue because of the two story proposal. Therefore, Mr. Stone came up with a new plan but can't get it to fit within the setback because of the number of cars. The structure proposed has a significant overhang on the building. He did talk to the Building Commissioner (BC) who didn't view the measurement from the overhang but from the foundation wall. The new one story proposal is agreeable with the neighbors. One of the abutters however just wanted to have a condition, which they are agreeable to, that would be to keep a vegetated screening be maintained

at the same level of height as not to impede the views. Also, he has letters of support from abutters which the board has copies of. This structure would solve the storage and parking problem and would satisfy the neighbors as it is a single story. As for variance conditions, it is an uniquely shaped lot combined with the topo on the lot which falls off seaward of the house and goes down to the revetment. The house is slightly kitty-cornered and if the addition is brought forward, it gets closer to that side yard setback which would result in them ending up with 8.5 feet which would require another variance. It is a uniquely shaped lot that is difficult to deal with which creates a hardship because of the problem with the placement of the building. There is a need for storage and a need to preserve on-street parking in that area. It will not be detrimental to the public good as shown with all the letters in support. Finally, it will not derogate from the intent of the bylaw. He would suggest that this meets the criteria for a variance. The staff report has been reviewed and his client is agreeable to the proposed conditions. Also, as for the comment from Teresa Tagliente regarding the vegetated screening, they would be willing to add another condition to that effect.

Mark Hansen asks if there are plans for this to be living space. Attorney Ford states no, and will agree to a condition to that effect. Alex reads the letters of support from Lauren Carbonneau, John and Heather Simmonds, Ula Quint, Anthony & Dolores Pelletier, Angela and Stephen Cote, and Teresa Tagliente.

Alex asks for public comment. No one speaks.

Alex makes findings:

Proposal & Relief Requested

Jason Stone Trust, Jason Stone Trustee, has petitioned for a Variance from Section 240-11 E. RB Residential District, Bulk Regulations. The Petitioner is proposing to construct an attached two-car garage to an existing dwelling 7.6 feet from the side yard setback where 10 feet is the minimum requirement.

Variance Findings

The statutory requirement of MGL Chapter 40A, Section 10 for granting a variance is a three-prong test. The Board is required to find that each of the following three requirements has been met in order to consider granting the variance:

1. owing to circumstances related to soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located; - he would find that this is uniquely shaped as stated by Attorney Ford, in on the water in the fall-off area and is a difficult lot notwithstanding the size
2. a literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner; and – he would find that there are concerns about the overhang and that this is not a substantial encroachment re: building wall versus the overhang and which would be a literal enforcement which would be a hardship
3. desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance – there are letters from abutters in support of the application

Vote:

All in favor

Alex makes a motion to grant the relief being sought in accordance with the conditions as outlined in the Staff Report dated July 5, 2019 and by adding Condition #5 that the applicant is to maintain the site and upon completion of the project is to maintain a landscaping buffer behind the addition to the abutting lot at 185 Bay Shore Road, Hyannis, MA. Also, Condition #6: This addition is not to be converted for habitation purposes without seeking approval from the Zoning Board of Appeals and that this be only for storage and parking.

Jake Dewey asks if they should add language to Condition #5 that the vegetation not to exceed the height of the proposed garage for view purposes.

Variance Conditions

1. Variance No. 2019-039 is granted to Jason Stone Trust, Jason Stone Trustee, to allow the construction of a 23.5 foot by 24 foot two-car garage encroaching into the rear setback at 183 Bay Shore Road, Hyannis, MA.
2. The site development shall be constructed in substantial conformance with the plan entitled "Site Plan of #183 Bay Shore Road Hyannis, MA" dated May 23, 2019, drawn and stamped by Down Cape Engineering, Inc.
3. The above-described structure shall represent full build-out of the lot. No further additions or accessory structures shall be permitted without approval from the Board.
4. This decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of a building permit. The rights authorized by this variance must be exercised within one year, unless extended.

Vote:

All in favor

GRANTED WITH CONDITIONS

Alex then calls the Ferrill appeal:

7:00 PM

Appeal No. 2019-033

Ferrill

Forrest and Linda K. Ferrill, II, are appealing a decision from an Administrative Official which was a denial of a building permit. The Building Commissioner has denied the issuance of a building permit in reference to Section 240-43 citing that the request for the 40 foot by 60 foot metal pole barn is not customary or incidental to a single-family dwelling and that the structure becomes predominant and thus the principal use. The subject property is located at 34 Cammett Road, Marstons Mills, MA as shown on Assessor's Map 079 as Parcel 020. It is located in the Residence F (RF) Zoning District.

Continued from June 12, 2019, June 26, 2019 & July 10, 2019. Members assigned: David Hirsch, Herbert Bodensiek, Jacob Dewey, Paul Pinard, Mark Hansen.

Members assigned tonight: David Hirsch, Herb Bodensiek, Jacob Dewey, Paul Pinard, Mark Hansen

Attorney James McCann from Buzzards Bay is here representing the applicant who is also present.

Mark Hansen would like to get an opinion from the Building Commissioner, Brian Florence, as to why this was denied previously. Brian Florence addresses the board members. He states that 2014, the proposal was denied and it was never timely appealed. Due to informality of the denial he thought it was appropriate to give a formal denial so that they could appeal to the ZBA. He states that the proposed structure is 2.5 the size of the principal structure. The typical test in terms of zoning is that they look at the principal and subordinate uses for an accessory structure. The principal structure is a single-family dwelling. A shed or a garage is normally incidental. When you get into a structure that is 2.5 size of the principal structure it no longer becomes customarily incidental it actually becomes dominate and the principal structure becomes the subordinate and is why he denied it and thinks his decision is the right call.

Mark Hansen asks if other alternative were given by the applicant. Brian Florence states that if the petitioner was to suggest alternative he would've considered it.

Bob Twiss asks that if the principal structure were larger would it have made a difference. Brian Florence states that it may have made some difference but it is what is the predominance of the use and what becomes subordinate and what becomes dominate.

Attorney McCann states that they applied for a permit to put up an ancillary permit. The bylaw that the commission is relying on is 240:43

"§ 240-43 Incidental and subordinate nature of accessory uses.

Within the zoning districts established herein, accessory uses or accessory buildings are permitted, provided that any such use or building is customarily incidental to, subordinate to and on the same lot as the principal use it serves except as otherwise provided for herein".

Attorney McCann goes on to say that this project is on a residential lot and that the lot is over an acre. The purpose of the building is strictly for storage and will not change the use of this property. The Ferrill's will live there and store personal items and no commercial venture will be out of this building or residential use of this building. The view of this building will only be from the neighbor who is in support. Mark Hansen states that this building is large and when combined with what is the primary use, would the applicant be open to the idea of a smaller structure. Attorney McCann states that at the last two hearings, he clarified that they would be storing a fold-up airplane. Mr. Ferrill speaks and states that he will be expanding the principal dwelling in the future.

Jake Dewey asks if the client would be agreeable to having a restriction that there be no commercially registered or owned property on-site. Attorney McCann states that the applicant has a truck for his business which is commercially registered. Paul Pinard states that he has visited the site and is hesitant because he has seen construction materials, huge logs, piles of stone, etc., and asks if this is going to be for a contractor's business. Mr. Ferrill states that those materials are for a project and plans to clean up and landscape the site.

Paul Pinard makes findings:

Findings

The Board should make findings when either voting to uphold or overrule the Building Official's decision to deny the issuance the building permit for this appeal.

In making such findings, the Board should consider the issues outlined above along with any additional documentation the Appellants may wish to provide.

In making findings the Board may wish to consider if the structure that was denied by the Building Inspector in accordance with Section 240-43, that is to say the building is not "customarily incidental to" and "subordinate to" the principal permitted use it serves due to its size.

A review of case law dealing with accessory uses, provide some questions for consideration.¹ In this instance, the principal allowed use and structure on the property is a single-family dwelling. According to our Ordinance, accessory uses must be:

- Customary: Is there a "commonality of usage?" Is the accessory use (a garage) a common use in connection with the primary use of the property?

¹ See Garabedian v Westland, 59 Mass App Ct 427 (2003) & Harvard v. Maxant, 360 Mass 432 (1971). Both of these cases dealt with private airstrips and/or hangars as accessory uses.

- Incidental: A consideration the magnitude of the use. Is the accessory use minor in significance? Is it the primary use of the property?
- Subordinate to the principal use: Is the accessory use in reasonable relation to the primary use? Is the accessory use attendant and concomitant (naturally accompanying and associated) to the principal use?

The Board may also want consider the accessory use in the context of the size of the property, the “nature of the primary use” and the character and economic structure of the surrounding neighborhood.

Alex asks if there is anyone from the public who would like to speak.

Michael Ferrill from Cotuit is here with his daughter and brother states that he is in support.

The board discusses. Jake Dewey asks if they can condition this regarding the prohibition of commercial use on the property. They discuss.

Attorney McCann states that they can't do it anyway because of the ordinance.

They agree to a condition that there be no commercial enterprise out of the proposed structure which Attorney McCann agrees to.

Vote:

All in favor

A motion is made by Paul Pinard to Overrule the Building Official's refusal to issue a building permit.

Vote:

All in favor

BUILDING COMMISSIONER'S DECISION IS OVERRULED

Alex reads the following into the record:

7:03 PM

Appeal No. 2019-040

O'Brien

Ann Marie and Mark O'Brien have petitioned for a Variance in accordance with Section 240-11.E – Bulk Regulations. The Petitioners are proposing to construct a 21 foot by 22.6 foot, two-car garage. The proposed garage encroaches into the 20 foot required front yard setback for the zoning district in which it is located. The subject property is located at 25 Carl Avenue, Hyannis, MA as shown on Assessor's Map 306 as

Members assigned tonight: Alex Rodolakis, David Hirsch, Herb Bodensiek, Paul Pinard,

Representative: John Kenney, Esq. Also with him tonight are the O'Briens. Attorney Kenney hands in a map and another letter of support from Carol and Don Cox who reside at 40 Carl Avenue (Exhibit A).

Attorney Kenney gives a summary of relief being proposed. He states that the proposed garage will encroach into the required twenty foot front yard setback. He goes over the requirements for granting a Variance under Chapter 40A. He explains that the topographical feature in reference to the first of the three prong test for a Variance is that the existing ranch style home is elongated, set back from Carl Avenue but is set side with setbacks of 10 and 14.6 feet from the side yard setback. He explains that there is no room to add a garage out front or in the back and thus the request for the Variance. He states that there is a strip of land between Carl Avenue and the property line which would mitigate any concerns regarding the setback. Carl Avenue is a minor road. They need a garage for safety and health reasons. Abutters and others in support do not feel that this would be a detriment and would suggest that the applicants meet the requirements of the provisions of the Variance.

Questions from the board: Jake Dewey asks if there will be room outside of the garage for parking. Mrs. O'Brien says yes. Jake also asks if the old driveway will be abandoned or used. Mrs. O'Brien states that it will be kept.

Alex states that in the file are letters of support from: the McNaughton's, Francis Bram from 23 Warren Avenue, a handwritten letter from Carolyn and Don Cox at 40 Carl Avenue (Exhibit A), and a letter from Lois E. Murphy of Harbor Road in Hyannis. He also notes that in Attorney Kenney's memo are letters of support.

Patty Farrah, here with her husband Ralph, from 20 Carl Avenue speak in support

Tom McNaughton of 225 Gosnold, Hyannis, speaks in favor

Attorney Kenney has reviewed the conditions and is concerned about Condition #3 regarding the buildout and the applicants would like to add a sunroom in the future. He would like that condition removed. Alex says they can keep the current shed but no further structures on the lot. Attorney Kenney and his clients agree.

Attorney Kenney wants it to say no additional separate structures without further relief from this board.

Jake Dewey makes findings:

Variance Findings

The statutory requirement of MGL Chapter 40A, Section 10 for granting a variance is a three-prong test. The Board is required to find that each of the following three requirements has been met in order to consider granting the variance:

4. owing to circumstances related to soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located; - **they have determined that the shape of the house and the lot create that**
5. a literal enforcement of the provisions of the zoning ordinance would involve substantial hardship, financial or otherwise to the petitioner; and – **they have determined that it is a substantial hardship**
6. desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance. – **they have determined that there is full support of the neighborhood.**

Vote:

All in favor

Jake Dewey makes a motion to grant the relief being request

Suggested Variance Conditions

Should the Board find to grant the variance, it may wish to consider the following conditions:

1. Variance No. 2019-040 is granted to Ann Marie and Mark O'Brien to allow the construction of a 21 foot by 22.6 foot two-car garage encroaching into the front yard setback at 25 Carl Avenue, Hyannis, MA.
2. The site development shall be constructed in substantial conformance with the plan entitled "Site Plan of #25 Carl Avenue Hyannis, MA" dated April 10, 2019, drawn and stamped by Down Cape Engineering, Inc.
3. ~~The above described structure shall represent full build-out of the lot.~~ No further additions or accessory structures shall be permitted without approval from the Board.
4. This decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of a building permit. The rights authorized by this variance must be exercised within one year, unless extended.

Vote:

All in favor

GRANTED WITH CONDITIONS

Alex reads the following into the record:

7:04 PM

Appeal No. 2019-041

Kirby

Neil and Kathleen Kirby have applied for a Special Permit pursuant to Section 240-91.H(3) – Developed Lot Protection. The Applicants are seeking a Special Permit in order to demolish an existing three-bedroom single-family dwelling and construct a 2,808 square foot, four-bedroom single-family dwelling on a lot containing less than 10,000 square feet of upland. The property is located at 77 Sunset Lane, Barnstable, MA as shown on Assessor's Map 301 as Parcel 025. It is located in the Residence B (RB) Zoning District.

Members assigned tonight: Alex Rodolakis, David Hirsch, Herb Bodensiek, Paul Pinard, Bob Twiss

Representative: John Kenney, Esq. Also with him tonight is Alison Alessi from A3 Architects in Dennis is here to answer any questions.

Attorney Kenney gives summary of relief being requested. They are applying for a Special Permit in order to demolish and rebuild on the lot. He states that the current home was built in 1899 in Sandy Neck and moved to this lot and that zoning was not adopted until 1929. The house sits on predominately on Lot #4 which was created by a land court plan in 1941 and is a legal, pre-existing nonconforming lot and house. They have been through Old King's Highway and received approval for the demolition and have been approved by the Conservation Commission.

He gives the zoning requirements of the demolition and rebuilding. He notes that the proposed lot coverage will meet the setback requirements of the zoning district in which it is located. The proposed lot coverage is 19.2% and FAR will be at 29%. It will also meet the height requirement and will not be more detrimental to the neighborhood.

Alex asks if the existing sheds will remain. Attorney Kenney states that the sheds will be removed.

Alex asks if there is anyone from the public who would like to speak. No one speaks.

Board discusses the lot size. Alex asks where the mechanicals are. Alison Alessi states that they will be located behind the bulkhead on the right side, will be visible from the street but screened and that the proposed generator will be on left hand side as well as a condenser.

Bob Twiss makes findings:

Proposal & Relief Requested

The Applicants are seeking a Special Permit in order to demolish an existing three-bedroom single-family dwelling and construct a 2,808 square foot, four-bedroom single-family dwelling with porch and patio on a lot containing less than 10,000 square feet of upland as required under Section 240-91 H. (1) "As of Right".

The existing lot coverage is 18.2% and the proposed lot coverage is 19.2%, under the threshold of 20%. The existing FAR is .21 and the proposed FAR is .29, under the 30% threshold allowed. The proposed dwelling will comply with current setback requirements.

Section 240-91(H)(3) requires a special permit for all demolition and rebuilding projects if the proposed demolition and rebuilding cannot satisfy the criteria under Section 240-91(H)(1) "As of Right", but the following criteria must be met:

- Lot Coverage: 19.2% (20% maximum) – 1,848 square feet (1,925 square feet allowed)
- Floor-Area Ratio: 29% (30% maximum) – 2,808 square feet (2,917 square feet allowed)
- Building Height: 27 feet to top of ridge (30 feet maximum)

Other Approval

On May 8, the Applicant received approval from Old Kings Highway for a Certificate of Demolition.

Proposed Special Permit Findings

For all Special Permits, the Board is required to make general findings pursuant to § 240-125(C). The Board should review the evidence presented by the Applicant, staff, and members of the public and, after weighing such evidence, is encouraged to articulate if and how the evidence contributes to each of the required findings.

- The application falls within a category specifically excepted in the ordinance for a grant of a special permit. Section 240-91(H)(3) allows for the complete demolition and rebuilding of a residence on a nonconforming lot containing less than 10,000 square feet by Special Permit **and that requirement has been met.**
- Site Plan Review is not required for single-family residential dwellings.
- After an evaluation of all the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a substantial detriment to the public good or the neighborhood affected. **The proposal meets those requirements.**

Further, Section 240-91(H)(3) requires the Board to find that if the proposed demolition and rebuilding cannot satisfy the criteria established in H(1) As-Of-Right, then the Board may allow the demolition and rebuilding by Special Permit provided the Board finds that:

- The proposed yard setbacks must be equal to or greater than the yard setbacks of the existing building. The proposed setbacks will comply with the requirements of the Residence B Zoning District.
- The proposed lot coverage shall not exceed 20% or the existing lot coverage, whichever is greater. The proposed lot coverage is 19.2%.
- The floor area ratio shall not exceed 0.30 or the existing floor area ratio of the structure being demolished, whichever is greater. The proposed FAR is .29 or 29%.
- The building height, in feet, shall not exceed 30 feet to the highest plate and shall contain no more than 2 ½ stories. The proposed height is 27 feet to the top of the ridge (30 feet maximum to the plate) and the proposed dwelling is 2 stories.

The Board is also asked to find that:

The proposed new dwelling would not be substantially more detrimental to the neighborhood than the existing dwelling. Clear from the proposal that the proposed building would be an advantage to the neighborhood.

Vote:

All in favor

Bob Twiss makes a motion to grant the relief being requested with the following conditions:

Conditions

1. Special Permit No. 2019-041 is granted to Neil and Kathleen Kirby for the demolition of an existing dwelling and construction of a 2,808 gross floor area dwelling at 77 Sunset Lane, Barnstable, MA.
2. The site development shall be constructed in substantial conformance with the plan entitled "Site Plan of #77 Sunset lane, Barnstable, MA" prepared by Down Cape Engineering, Inc., dated May 20, 2019 with a revision date of June 17, 2019 and design plans by A3 Architects, Inc., dated May 10, 2019.
3. The total lot coverage of all structures on the lot shall not exceed 19.2% and the floor-area ratio shall not exceed 29%.
4. The proposed redevelopment shall represent full build-out of the lot. Further expansion of the dwelling or construction of additional accessory structures is prohibited without prior approval from the Board.
5. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.

6. The decision shall be recorded at the Barnstable County Registry of Deeds/Land Court and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of the building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

Attorney Kenney is asked and notes that he has seen the staff report with suggested conditions which are acceptable.

Vote:

All in favor

GRANTED WITH CONDITIONS

Correspondence

- Received 07-11-19 – Joint Motion to Continue Status Conference regarding John D. and Kathleen R. Sullivan vs Zoning Board of Appeals: ZBA Appeal No. 2015-022 for property located at 564 Old Craigville Road, Centerville, MA.
- Received 07-11-19 – Application for a Simplified Chapter 91 License to construct a proposed or maintain an existing: pier/dock, ramp, float(s) and pile(s) for Peter & Kathleen Shea for property located at 483 Elliot Road, Centerville, MA

Upcoming Meetings

August 7, August 21, September 11, September 25, 2019

Adjournment

Please Note: The list of matters are those reasonably anticipated by the chair, which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the Board may go into executive session. The Board may also act on items in an order other than they appear on this agenda.

* Public files are available for viewing during normal business hours at the Zoning Board of Appeals office located at 200 Main Street, Hyannis, MA